

REMARKS

Applicants have amended claims 1 and 6 to facilitate reading of the claims and have added new claims 7 and 8. Claims 1-8 are now pending.

In the pending Office Action, the Examiner rejected claims 1 and 5 under 35 U.S.C. § 102(b) as being anticipated by Stimson et al. (U.S. Patent No. 6,134,002), and rejected claims 2-3 and 6 under 35 U.S.C. § 103(a) as being unpatentable over Stimson et al. in view of Nemoto et al. (PCT WO 02/10727). Further, the Examiner objected to claim 4 as being dependent on a rejected base claim but allowable if rewritten in independent form. Applicants traverse the aforementioned rejections and objection, at least for the following reasons.

Applicant appreciates the indication by the Examiner that claim 4 contains allowable subject matter. As for the rejections applied to remaining claims 1-3, 5, and 6, reconsideration and withdrawal of such rejections are respectfully requested.

In this regard, independent claim 1 is directed to a fluorescence lifetime distribution image measurement device in which a streak camera is used as a detector and in which a measurement optical system comprises scanning means. A related method is recited in independent claim 6. The recited technology may provide a number of advantages (although the claims are not limited to only those embodiments that provide such advantages). For example, a spot-light pulse excitation light may be scanned at a high speed in the X-axis direction of a sample and in the Y-axis direction, with the scan distance in the X-axis direction corresponding to the slit length of the photoelectric surface of the streak camera.

Against this backdrop, Applicants submit that the applied references to Stimson et al. and Nemoto et al. do not disclose any of Applicants' combinations comprising fluorescence lifetime distribution image creation means for calculating the fluorescence lifetimes based on said

variations with time of the fluorescence intensities recorded by said streak camera and creating a fluorescence lifetime distribution image (as recited in independent claim 1) or the step of calculating the fluorescence lifetimes based on variations with time of the fluorescence intensities that have been recorded by a streak camera, and creating a fluorescence lifetime distribution image (as recited in independent claim 6).

The applied reference to Stimson et al., for example, relates to a confocal microscope with a spectrometer. At page 2 of the Office Action, the Examiner appears to be asserting that detector array 342 of Stimson et al. corresponds to the fluorescence lifetime distribution image creation means recited in Applicants' independent claim 1. This recited means, according to the language in claim 1, is for calculating the fluorescence lifetimes based on said variations with time of the fluorescence intensities recorded by said streak camera and creating a fluorescence lifetime distribution image.

Applicants respectfully disagree with the Examiner's assertion that detector array 342 of Stimson et al. corresponds to the fluorescence lifetime distribution image creation means recited in claim 1, or to the step of calculating the fluorescence lifetimes based on variations with time of the fluorescence intensities that have been recorded by a streak camera, and creating a fluorescence lifetime distribution image, as recited in claim 6, at least because Applicants submit that detector array 342 of Stimson et al. does not calculate fluorescence lifetimes as recited in Applicants' claims. Instead, Applicants submit that detector array 342 of Stimson et al. is merely located at the focus of spectrometer 340 to obtain a spectra image relating to an image line spectrally dispersed by spectrometer 340.

Applicants also respectfully disagree with the Examiner's apparent assertion that element 340 of Stimson et al. is a streak camera as recited in Applicants' independent claim 1 or

independent claim 6. Rather than being a streak camera, Applicants submit that element 340 of Stimson et al. is a spectrometer which disperses light from an object to be observed.

In view of the foregoing, Applicants submit that Stimson et al. does not by itself disclose or suggest the combinations recited in either independent claim 1 or independent claim 6, or in any of the claims depending from independent claim 1 or independent claim 6, particularly dependent claims 7 and 8 expressly reciting a streak camera.

As for the obviousness-type rejection applied to claim 6 under 35 U.S.C. § 103(a), Applicants submit that Nemoto et al. does not make up for the deficiencies in Stimson et al. In this regard, the Examiner appears to acknowledge that Stimson et al. does not teach or suggest the method recited in independent claim 6. The Examiner then relies on Nemoto et al. to make up for the deficiencies in Stimson et al. However, even if Stimson et al. and Nemoto et al. were to be combined in the manner suggested by the Examiner, Applicants submit that the resulting combination would still not perform at least the fifth step of recording the variations with time of the fluorescence intensities of the fluorescences that are emitted from said respective scanning points by the illumination of the converged pulse excitation light, wherein at least the fifth step is performed using a streak camera, as recited in Applicants' independent claim 6.

Moreover, Applicants submit that the combination of Stimson et al. and Nemoto et al. does not disclose or suggest the use of a streak camera as recited in independent claim 1, independent claim 6, or in dependent claims 7 and 8, for example. As set forth above in connection with the discussion relating to claim 1, Stimson et al. does not disclose or suggest the use of a streak camera. Furthermore, Nemoto et al. does not make up for this deficiency at least because it does not teach or suggest a streak camera. Thus, even if Stimson et al. and Nemoto et al. were to be combined in the manner suggested in the Office Action, the resulting combination

would still not include all of the features (e.g., a streak camera) as recited in independent claims 1 and 6, and in dependent claims 7 and 8.

For at least the foregoing reasons, reconsideration and withdrawal of the objection and rejections set forth in the pending Office Action are respectfully requested.

In view of the foregoing, Applicants submit that all of the pending claims should now be in condition for allowance. Accordingly, a timely allowance of all of the pending claims is earnestly solicited.

CONCLUSION

In view of the foregoing, Applicant submits that the pending claims are in condition for allowance, and respectfully requests reconsideration and withdrawal of all outstanding objections and rejections, and the timely allowance of the pending claims. Should the Examiner feel that there are any issues outstanding after consideration of this response, the Examiner is invited to contact Applicant's undersigned representative to expedite prosecution. A favorable action is awaited.

EXCEPT for issue fees payable under 37 C.F.R. § 1.18, the Commissioner is hereby authorized by this paper to charge any additional fees during the entire pendency of this application including fees due under 37 C.F.R. § 1.16 and 1.17 which may be required, including any required extension of time fees, or credit any overpayment to Deposit Account No. 50-0573. This paragraph is intended to be a **CONSTRUCTIVE PETITION FOR EXTENSION OF TIME** in accordance with 37 C.F.R. § 1.136(a)(3).

Respectfully submitted,



John G. Smith, Reg. No. 33,818

Dated: June 25, 2007

Customer No. 055694
DRINKER BIDDLE & REATH LLP
1500 K Street, N.W., Suite 1100
Washington, DC 20005-1209
Tel.: (202) 842-8800
Fax: (202) 842-8465